

BAY COUNTY ELECTION COMMISSION

OCTOBER 2, 2000

THE BAY COUNTY ELECTION COMMISSION MET FOR A CLARITY HEARING ON MONDAY, OCTOBER 2, 2000, IN THE CONFERENCE ROOM ON THE FOURTH FLOOR OF THE BAY COUNTY BUILDING. THE MEETING WAS CALLED TO ORDER BY CHAIRMAN KAREN A. TIGHE AT 4:03 P.M. WITH THE FOLLOWING MEMBERS AND GUESTS PRESENT:

ROLL CALL: COUNTY CLERK LINDA L. TOBER
PROBATE COURT JUDGE KAREN A. TIGHE, CHAIRMAN

EXCUSED: COUNTY TREASURER JEANETTE E. NEITZEL

ALSO PRESENT: LORAINA A. ROSECRANS, SECRETARY TO THE COUNTY CLERK
GARY E. BOSCO, PETITIONER
COLIN J. HINTZ, 2ND WARD CITY COMMISSIONER
DONALD VANDERBURG, CITY OF BAY CITY RESIDENT
DANA L. MUSCOTT, CLERK, CITY OF BAY CITY
JAN CURRIE, DEPUTY CLERK, CITY OF BAY CITY
NEWS MEDIA

CHAIRMAN TIGHE ANNOUNCED THAT THIS MEETING WAS IN REGARD TO A PROPOSED RECALL PETITION SUBMITTED BY GARY E. BOSCO AGAINST 2ND WARD CITY COMMISSIONER COLIN J. HINTZ. SHE STATED THAT BOTH COMM. HINTZ AND MR. BOSCO WOULD BE CALLED UPON TO MAKE A SHORT STATEMENT IF THEY WISHED IN REGARD TO CLARITY, AND SHE CALLED UPON COMM. HINTZ FIRST.

MR. HINTZ CONSULTED WITH AN ENGLISH TEACHER AND CONCLUDED THAT THE LANGUAGE IS CONFUSING BECAUSE IT CONTAINS TWO SEPARATE ISSUES LINKED BY THE WORD "AFTER," THOSE BEING 1) MR. HINTZ SPONSORING A RESOLUTION ON SEPTEMBER 11, 2000, REQUESTING SUSPENSION OF CITY MANAGER JAMES PALENICK AND 2) MR. PALENICK RECEIVING HIGH MARKS IN HIS ANNUAL EVALUATION. MR. HINTZ NOTED THAT THE WORD "AFTER" IMPLIES THAT MR. PALENICK RECEIVED HIS HIGH EVALUATION WHICH LED MR. HINTZ TO CALL FOR HIS SUSPENSION WHEN, IN FACT, THE EVALUATION WAS NOT RELATED TO MR. HINTZ'S RESOLUTION. MR. HINTZ EXPLAINED THAT HE CALLED FOR MR. PALENICK'S SUSPENSION FOLLOWING AN ACT OF INSUBORDINATION DURING A CLOSED SESSION, NOT BECAUSE MR. PALENICK RECEIVED HIGH MARKS. MR. HINTZ FURTHER STATED THAT HE WOULD NOT BE ABLE TO PROPERLY DEFEND

HIS ACTION BECAUSE THE INSUBORDINATION OCCURRED DURING AN EXECUTIVE SESSION, WHICH IS A CLOSED SESSION AND SEALED FROM PUBLIC DISCUSSION.

MR. BOSCO RESPONDED THAT MR. HINTZ WAS READING TOO MUCH INTO THE LANGUAGE. THE PETITION DEFINES TWO DIFFERENT EVENTS. THE WORD "AFTER" IS INTENDED TO TELL THE READER THE ORDER IN WHICH THE TWO EVENTS OCCURRED. MR. BOSCO STATED THAT MR. HINTZ IS NOT DENYING EITHER EVENT, BUT IS ATTEMPTING TO EXPLAIN WHY HE SPONSORED THE RESOLUTION. MR. BOSCO STATED THAT PETITION LANGUAGE IS NOT REQUIRED TO EXPLAIN ACTIONS TAKEN.

CITY RESIDENT DONALD VANDERBURG ADDRESSED THE COMMISSION WITH HIS COMMENTS OF THE INAPPROPRIATENESS OF THE PROPOSED PETITION AND REQUESTED THAT THE ELECTION COMMISSION DENY THE PETITION.

MR. HINTZ RESPONDED TO MR. BOSCO'S REMARKS THAT THE FACT THE TWO EVENTS ARE NOT RELATED MAKES THE PETITION LANGUAGE UNCLEAR AND ALSO DIFFICULT TO DEFEND. HE REQUESTED THAT THE COMMISSION ALLOW MR. BOSCO TO REWRITE THE PETITION.

COUNTY CLERK TOBER CLARIFIED THAT THE LAW DOES NOT ALLOW THE ELECTION COMMISSION TO DETERMINE WHETHER THE REASON IN THE PETITION IS JUST OR UNJUST. THE LAW ONLY ALLOWS THE COMMISSION TO DETERMINE WHETHER THE STATEMENT IN THE PETITION IS CLEAR AND CONCISE. IT IS UP TO THE VOTERS TO DECIDE WHETHER THEY WANT TO SIGN THE RECALL PETITION AND HOW THEY WANT TO VOTE AT THE POLLS.

COUNTY CLERK TOBER MOVED THAT THE PETITION TO RECALL CITY COMMISSIONER COLIN J. HINTZ BE APPROVED. IT WAS SUPPORTED BY CHAIRMAN TIGHE AND PASSED BY VOICE VOTE, 2 YEAS, 0 NAYS, 1 EXCUSED - NEITZEL.

MS. TOBER EXPLAINED THAT MR. HINTZ HAD TEN DAYS TO FILE AN APPEAL IN CIRCUIT COURT. SHE ALSO EXPLAINED THAT MR. BOSCO WAS REQUIRED TO OBTAIN SIGNATURES OF 365 REGISTERED VOTERS ON THE PETITION. THAT NUMBER REPRESENTS 25% OF THE VOTES CAST IN THE 1998 GOVERNOR'S RACE IN THE 2ND WARD OF THE CITY OF BAY CITY.

THE ELECTION COMMISSION MEETING WAS ADJOURNED AT 4:18 P.M.

RESPECTFULLY SUBMITTED,

LINDA L. TOBER
BAY COUNTY CLERK